

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

SMITH, *et al.*,

Plaintiffs,

v.

CITIMORTGAGE, INC.,

Defendant.

Civil Action No.: 15-7629 (JLL)

**ORDER**

Presently before the Court is Defendant's motion to dismiss Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). For the reasons set forth in this Court's corresponding Opinion,

**IT IS** on this 22<sup>nd</sup> day of December, 2015,

**ORDERED** that Defendant's motion to dismiss (ECF No. 6) is denied in part and granted in part. Plaintiffs' claims for breach of the covenant of good faith and fair dealing and restitution are dismissed with prejudice. Plaintiffs' claims for common law fraud, negligent misrepresentation, equitable fraud, promissory estoppel, and unjust enrichment are dismissed without prejudice; and it is further

**ORDERED** that Plaintiffs may file an amended complaint that cures the deficiency identified in this Court's Opinion by no later than January 25, 2016. If Plaintiffs fail to file an amended complaint by this date, the claims that are dismissed herein without prejudice will be dismissed with prejudice.

**IT IS SO ORDERED.**

A handwritten signature in black ink, appearing to read 'JLL', is written above a horizontal line.

JOSE L. LINARES  
U.S. DISTRICT JUDGE